

§ 1614.7

If the request is denied, the Corporation will provide the recipient with an explanation and statement of the grounds for denial. If the waiver is to be denied because the information submitted is insufficient, the Corporation will inform the recipient as soon as possible, both orally and in writing, about what additional information is needed. Should the Corporation fail to so respond, the request shall be deemed to be granted.

§ 1614.7 Failure to comply.

(a) If a recipient fails to comply with the expenditure required by this part and if that recipient fails without good cause to seek a waiver during the term of the grant or contract, the Corporation shall withhold from the recipient's support payments an amount equal to the difference between the amount expended on PAI and twelve and one-half percent (12½%) of the recipient's basic field award.

(b) If a recipient fails with good cause to seek a waiver, or applies for but does not receive a waiver, or receives a waiver of part of the PAI requirement and does not expend the amount required to be expended, the PAI expenditure requirement for the ensuing year shall be increased for that recipient by an amount equal to the difference between the amount actually expended and the amount required to be expended.

(c) Any funds withheld by the Corporation pursuant to this section shall be made available by the Corporation for use in providing legal services in the recipient's service area through PAI programs. Disbursement of these funds shall be made through a competitive solicitation and awarded on the basis of efficiency, quality, creativity, and demonstrated commitment to PAI service delivery to low-income people.

(d) The withholding of funds under this section shall not be construed as a termination of financial assistance under part 1606 of these regulations or a denial of refunding under part 1625 of these regulations.

45 CFR Ch. XVI (10–1–05 Edition)

PART 1615—RESTRICTIONS ON ACTIONS COLLATERALLY ATTACKING CRIMINAL CONVICTIONS

Sec.

1615.1 Purpose.

1615.2 Prohibition.

1615.3 Application of this part.

AUTHORITY: Sec. 1007(b)(1); (42 U.S.C. 2996f(b)(1)).

SOURCE: 41 FR 38508, Sept. 10, 1976, unless otherwise noted.

§ 1615.1 Purpose.

This part prohibits the provision of legal assistance in an action in the nature of habeas corpus seeking to collaterally attack a criminal conviction.

§ 1615.2 Prohibition.

Except as authorized by this part, no Corporation funds shall be used to provide legal assistance in an action in the nature of habeas corpus collaterally attacking a criminal conviction if the action

(a) Is brought against an officer of a court, a law enforcement official, or a custodian of an institution for persons convicted of crimes; and

(b) Alleges that the conviction is invalid because of any alleged acts or failures to act by an officer of a court or a law enforcement official.

§ 1615.3 Application of this part.

This part does not prohibit legal assistance—

(a) To challenge a conviction resulting from a criminal proceeding in which the defendant received representation from a recipient pursuant to Corporation regulations; or

(b) Pursuant to a court appointment made under a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction, if authorized by the recipient after a determination that it is consistent with the primary responsibility of the recipient to provide legal assistance to eligible clients in civil matters.

PART 1616—ATTORNEY HIRING

Sec.

1616.1 Purpose.

1616.2 Definition.

1616.3 Qualifications.

Legal Services Corporation

§ 1617.2

- 1616.4 Recommendations.
- 1616.5 Preference to local applicants.
- 1616.6 Equal employment opportunity.
- 1616.7 Language ability.

AUTHORITY: Secs. 1007(a)(8); 1006(b)(6); 1006(b)(4); (42 U.S.C. 2996f(a)(8); 2996e(b)(6); 2996e(b)(4)).

SOURCE: 41 FR 38509, Sept. 10, 1976, unless otherwise noted.

§ 1616.1 Purpose.

This part is designed to promote a mutually beneficial relationship between a recipient and the local Bar and community, and to insure that a recipient will choose highly qualified attorneys for its staff.

§ 1616.2 Definition.

Community, as used in this part, means the geographical area most closely corresponding to the area served by a recipient.

§ 1616.3 Qualifications.

A recipient shall establish qualifications for individual positions for attorneys providing legal assistance under the Act, that may include, among other relevant factors:

- (a) Academic training and performance;
- (b) The nature and extent of prior legal experience;
- (c) Knowledge and understanding of the legal problems and needs of the poor;
- (d) Prior working experience in the client community, or in other programs to aid the poor;
- (e) Ability to communicate with persons in the client community, including, in areas where significant numbers of eligible clients speak a language other than English as their principal language, ability to speak that language; and
- (f) Cultural similarity with the client community.

§ 1616.4 Recommendations.

(a) Before filling an attorney position, a recipient shall notify the organized Bar in the community of the existence of a vacancy, and of the qualifications established for it, and seek recommendations for attorneys who meet the qualifications established for the position.

(b) A recipient shall similarly notify and seek recommendations from other organizations, deemed appropriate by the recipient, that have knowledge of the legal needs of persons in the community unable to afford legal assistance.

§ 1616.5 Preference to local applicants.

When equally qualified applicants are under consideration for an attorney position, a recipient shall give preference to an applicant residing in the community to be served.

§ 1616.6 Equal employment opportunity.

A recipient shall adopt employment qualifications, procedures, and policies that meet the requirements of applicable laws prohibiting discrimination in employment, and shall take affirmative action to insure equal employment opportunity.

§ 1616.7 Language ability.

In areas where a significant number of clients speak a language other than English as their principal language, a recipient shall adopt employment policies that insure that legal assistance will be provided in the language spoken by such clients.

PART 1617—CLASS ACTIONS

Sec.

- 1617.1 Purpose.
- 1617.2 Definitions.
- 1617.3 Prohibition.
- 1617.4 Recipient policies and procedures.

AUTHORITY: 29 U.S.C. 2996e(d)(5); 110 Stat. 3009 (1996); 110 Stat. 1321 (1996).

SOURCE: 61 FR 63755, Dec. 2, 1996, unless otherwise noted.

§ 1617.1 Purpose.

This rule is intended to ensure that LSC recipients do not initiate or participate in class actions.

§ 1617.2 Definitions.

(a) *Class action* means a lawsuit filed as, or otherwise declared by the court having jurisdiction over the case to be, a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure or the comparable State statute or rule of